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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,296	07/10/2003	David Brault	84215-202 ADB	1602
23529	7590	11/21/2006	EXAMINER	
ADE & COMPANY INC. 2157 Henderson Highway WINNIPEG, MB R2G1P9 CANADA			GELLNER, JEFFREY L	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/616,296

Applicant(s)

BRAULT ET AL.

Examiner

Jeffrey L. Gellner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 4-16, 19-22, 25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 2, 4-16, 25, 26 is/are allowed.
- 6) ☐ Claim(s) 19-21 is/are rejected.
- 7) ☐ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wi (US 5,438,795) in view of Siccardi (US 4,737,103) and Bohanon Sr. (US 4,445,426) in further view of Meckler (US 5,279,609).

As to claim 19, Wi discloses a greenhouse with the exterior wall structure with transparent panels (shown in Fig. 1 for the far sidewall) and defined by a plurality of benches (G of Fig. 1), vertical posts (shown in Fig. 1 for the far sidewall), each bench associated with a span between posts (in that in Fig. 1 there are ten "benches" (i.e., growing regions) and 10 spans, excluding the two de minimis, triangular spans at the bottom corners). Not disclosed is an air handling system which includes a plurality of ducts and a plurality of air moving fans each mounted in a respective one of a plurality of fan housings having one interior air intake, one interior air outlet, one exterior vent, and one component for air changing, these components connected to the duct, wherein the plurality of fan housings is equal to the number of spans between the plurality of vertical posts, the number of air handling systems equal to the number of benches. Siccardi, however, discloses an air handling system for a greenhouse (col. 1, line 20) which includes an air moving fans (115 of Fig. 5) mounted in a fan housings (111 of Fig. 5) of

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having one interior air intake (213 and 215 of Fig. 5), one interior air outlet (region around 115 of Fig. 5), one exterior vent (region around 211 of Fig. 5), and one component for air changing (119 of Fig. 5), all connected to a duct (113 of Fig. 5); Bohanon Sr. discloses the concept of mounting the fan housing between vertical posts (see 10 of Fig. 1); and Meckler discloses the concept of a plurality of independent air handling systems for each unit (A of Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the greenhouse of Wi by using the air conditioning system of Siccardi to heat the greenhouse with moderate air velocity (see Siccardi at col. 1, lines 23-39) and to place the fan housings between vertical posts as an efficient building method and to use a plurality of housings to increase the air conditioning power as disclosed by Bohanon Sr and to use multiple systems as disclosed by Meckler so as to serve separate comfort air spaces (see Meckler at col. 1 lines 5-10).

As to claim 20, Wi as modified by Siccardi, Bohanon Sr. and Meckler further disclose the fan housings being inside the posts (in that inside the greenhouse of Fig. 5 of Siccardi)..

As to claim 21, Wi as modified by Siccardi, Bohanon Sr., and Meckler further disclose a wall panel the height of the fan housing (see Fig. 1 of Bohanon Sr.).

Allowable Subject Matter

Claims 2, 4-16, 25, and 26 are allowed over the art of record.

Claim 22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's argument filed 7 September 2006 have been fully considered but they are not persuasive. Applicants' arguments are; (1) Meckler does not disclose an HVAC system for separate zones but for different rooms in a building (Remarks top half of page 13); and, (2) Meckler does not disclose the inlet and outlet in the same duct (Remarks bottom of page 13 continuing to top of page 14).

As to argument (1), Meckler is used to disclose, or teach, the concept of having separate air handling systems for each specific zone of a larger zone, such as a building. For a building, the logical, or obvious, smaller zone are the rooms. However, for a greenhouse with multiple benches in one large zone the logical smaller zones are the benches, themselves. Each bench can then have a unique environment so as to optimize the growing of different species of plants in the greenhouse.

As to argument (2), Siccardi discloses an air handling system in one duct. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the disclosures of Siccardi with Meckler so as to achieve use of less material etc.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey L. Gellner whose telephone number is 571.272.6887. The examiner can normally be reached on Monday-Friday, 8:30-4:00, alternate.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571.272.6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jeffrey L. Gellner
Primary Examiner
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